

No. 78-1012

Supreme Court, U. S.

FILED

JAN 10 1979

MICHAEL RODAK, JR., CLERK

**In the Supreme Court of the United States**

OCTOBER TERM, 1978

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NEWPORT NEWS SHIPBUILDING AND  
DRY DOCK COMPANY, PETITIONER

v.

DIRECTOR, OFFICE OF WORKERS' COMPENSATION  
PROGRAMS, U.S. DEPARTMENT OF LABOR,  
and SAMMY J. JENKINS

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*ON PETITION FOR A WRIT OF CERTIORARI TO  
THE UNITED STATES COURT OF APPEALS FOR  
THE FOURTH CIRCUIT*

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**MEMORANDUM FOR THE FEDERAL RESPONDENT  
IN OPPOSITION**

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WADE H. MCCREE, JR.  
*Solicitor General  
Department of Justice  
Washington, D.C. 20530*

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The judgment of the court of appeals in this case was entered on September 21, 1978 (Pet. App. A). Petitioner did not seek rehearing in the court of appeals and did not obtain an extension of time within which to file a petition for certiorari. The time provided by 28 U.S.C. 2101(c) within which to file a petition for certiorari therefore expired on December 20, 1978. The petition was not filed until December 21, 1978. The time limit provided by Section 2101(c) is jurisdictional.<sup>1</sup> *Department of Banking*

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<sup>1</sup>On December 23, 1978, after the time for filing the petition had expired, petitioner filed an "Application for Leave to File Petition for Writ of Certiorari Out of Time," alleging that weather conditions had prevented the timely delivery of the petition to the Court for filing. Neither weather conditions nor other mishaps provide any basis for this Court to waive the statutory limitation on the period for filing a petition. See *Teague v. Regional Commissioner of Customs*, 394 U.S. 977 (1969).

v. *Pink*, 317 U.S. 264 (1942). It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

WADE H. MCCREE, JR.  
*Solicitor General*

JANUARY 1979